

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EATON CORPORATION,

Plaintiff,

Case No. 03-74844

vs.

HON. GEORGE CARAM STEEH

ZF MERITOR LLC, ARVINMERITOR,
INC. and ZF FRIEDRICHSHAFEN AG,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR RECONSIDERATION
OF COURT'S *IN LIMINE* RULING ON EVIDENCE OF DEFENDANTS'
PRE-LITIGATION KNOWLEDGE OF THE ASSERTED PATENTS [DOC. # 357]

This court entered an order denying defendants' motion *in limine* to exclude evidence of defendants' pre-litigation knowledge of the asserted patents. Defendants now file a motion for reconsideration of that order, arguing that to admit any of Mr. Hensinger's testimony would violate Knorr-Bremse Systeme Fuer Nutzfahrzeuge GMBH v. Dana Corp., 383 F.3d 1337, 1344 (Fed. Cir. 2004) (en banc).

Local Rule 7.1(g)(3) of the Local Rules of the United States District Court for the Eastern District of Michigan provides:

[M]otions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

In support of their motion for reconsideration, defendants reiterate that Mr. Hensinger conducted his review of the asserted patents at the direction of Mr. Ronge,

who serves as the functional equivalent of a patent attorney for defendants. Defendants urge that the same attorney work product immunity that protects Mr. Ronge's analysis also extends to the entirety of Mr. Hensinger's review. However, the case law relied upon by defendants does not support a rule that the attorney-client privilege prohibits the disclosure of non-privileged information when that information is somehow related to legal advice.

The court finds that defendants' motion does not demonstrate a palpable defect, either of law or fact, by which the court has been misled. Accordingly,

IT IS ORDERED that defendants' motion for reconsideration is hereby DENIED.
So ordered.

Dated: September 15, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
September 15, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk